



#9

**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED  
UNINTENTIONALLY UNDER 37 CFR 1.137(b)**

Docket Number (Optional)  
11738.00078

First named inventor: Harper

Application No.: 09/070,269

Group Art Unit: 3763

Filed: April 30, 1998

Examiner: D. Blyveis

Title: A Device Used to Connect an External Ventricular Drainage Catheter

Attention: Office of Petitions  
Assistant Commissioner for Patents  
Box DAC  
Washington, D.C. 20231

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (703)305-9282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the Office notice or action plus any extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee -- required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

☐ Small entity - fee \$\_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

☒ Other than small entity - fee \$1,280.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

A. The reply and/or fee to the above-noted Office action in the form of Amendment Under C.F.R. 1.111 (identify type of reply):

- ☐ has been filed previously on \_\_\_\_\_ .  
☒ is enclosed herewith.

B. The issue fee of \$

- ☐ has been paid previously on \_\_\_\_\_ .  
☐ is enclosed herewith.

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Burden Hour Statement: This form is estimated to take 1.0 hour to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

06/11/2002 AWONDAF1 00000053 190733 09070269

01 FC:141 1280.00 CH

3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$\_\_\_\_\_ for a small entity or \$\_\_\_\_\_ for other than a small entity) disclaiming a period equivalent to the period of abandonment is enclosed herewith (see PTO/SB/63).

4. Statement. The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c)(III)(C) and (D))].

**WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**

June 5, 2002  
Date

Curtis D. Kinghorn  
Signature

Telephone  
Number: (763) 505-2913

Curtis D. Kinghorn

Typed or printed name

Medtronic, Inc.

Address

710 Medtronic Parkway NE

LC 340

Minneapolis, MN 55432

Enclosures: ☒ Fee Payment

- ☒ Reply
- ☐ Terminal Disclaimer Form
- ☒ Additional sheets containing statements establishing unintentional delay
- ☐ Other: \_\_\_\_\_

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(A)]**

I hereby certify that this correspondence is being:

☐ deposited with the United States Postal Service as "Express Mail Post Office to Addressee" under 37 CFR § 1.10 on the date indicated above in an envelope addressed to:

United States Patent and Trademark Office  
Washington, D.C. 20231

☐ transmitted by facsimile on the date shown below to the Patent and Trademark Office at (703) 308-6916.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Typed or printed name of person signing certificate

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Additional Sheet 1 of 1

1. The instant application was filed by the PS Medical Business of Medtronic.  
At the time of filing the instant application, Mr. Kinghorn had responsibility for the application as part of his job responsibilities as Patent Counsel for the PS Medical Business.
2. A first Office Action was issued on April 28, 1999. Mr. Kinghorn began a response, intending to complete and file it within the shortened statutory period provided. Through oversight, the response was not timely filed. The Office provided a notice of abandonment mailed February 29, 2000.
3. On realizing the response was not timely filed, Mr. Kinghorn instructed a Medtronic patent paralegal to begin a petition for revival. The paralegal began the petition to revive. The notice was received and marked "Rush" at Medtronic to indicate rush action was required to revive the application. Nevertheless, through oversight, the petition to revive was never completed and filed.
4. Mistakenly assuming the patent application had been revived, Mr. Kinghorn prepared and filed a Supplemental Information Disclosure Statement for the application on May 1, 2000. Oversight is apparent since at the time of filing of the Supplemental Information Disclosure Statement, the application was actually abandoned and had not been revived. The file remained in this condition of oversight of the abandonment after May, 2000.
5. On or about February 14, 2001, Mr. Kinghorn changed responsibilities within Medtronic to become a Senior Legal Counsel for the PS Medical Business of Medtronic.

6. Because of Mr. Kinghorn's new job responsibilities, the prosecution of patent applications for PS Medical was moved to outside law firms. Unfortunately, responsibility for the instant application was inadvertently not passed to the outside law firm.

7. The fact that the instant application had been abandoned and had not been revived was later discovered by Mr. Kinghorn. Mr. Kinghorn referred the matter to the undersigned. This petition to revive followed.

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